

JAVAN VINES,
AIS #257793,

Plaintiff,

v.

LT. SCOTT, et al.,

Defendants.

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CASE NO. 2:15-CV-820-MHT

Javan Vines (“Vines”), an indigent state inmate, initiated this 42 U.S.C. § 1983 action in which he sought to challenge general conditions of the kitchen/dining area present at the Bullock Correctional Facility in August of 2015.¹ Vines also presented claims arising from the alleged failure of correctional officials at Bullock to protect a fellow inmate from a violent assault. Finally, Vines complained that a correctional officer verbally threatened him instead of simply responding to his inquiries. After reviewing the complaint and finding numerous deficiencies with this pleading, including Vines’ lack of standing to raise claims on behalf of another inmate and the lack of merit as to his threats claim, the court determined that Vines should be provided an opportunity to file an amended complaint to correct such deficiencies. A detailed order was therefore issued explaining the deficiencies

¹When Vines filed this case, he was incarcerated at the Alabama Therapeutic Education Facility in Columbiana, Alabama. However, at this time, the inmate database maintained by the Alabama Department of Corrections, <http://doc.state.al.us/InmateSearch>, indicates that Vines is now incarcerated at the Childersburg Work Release Center.

and providing Vines specific instructions with respect to filing the amended complaint. *Doc. No. 4* at 1-4. The court specifically advised Vines “***that this case will proceed only against the defendants named and claims presented in the amended complaint***” and cautioned him that his failure to comply with the directives of this order would result in a Recommendation that this case be dismissed. *Id.* at 4-5 (emphasis in original).

The time allowed Vines to file the amended complaint has long since expired. As of the present date, Vines has failed to file an amended complaint as required by this court. In light of Vines’ failure to file the requisite amended complaint, the court concludes that this case should be dismissed. *Tanner v. Neal*, 232 Fed. App’x 924 (11th Cir. 2007) (affirming *sua sponte* dismissal without prejudice of inmate’s § 1983 action for failure to file an amended complaint in compliance with court’s prior order directing amendment and warning of consequences for failure to comply); *see also Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (As a general rule, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion.).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to file an amended complaint as ordered by this court.

The plaintiff may file objections to the Recommendation on or before February 17, 2017. The plaintiff must specifically identify the factual findings and legal conclusions in the Recommendation to which his objection is made. The plaintiff is advised that frivolous, conclusive, or general objections will not be considered. Failure to file written objections

to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) shall bar a party from a *de novo* determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the party to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. 11TH Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

The Clerk is DIRECTED to provide a copy of this Recommendation to the plaintiff at his address of record and his current address as indicated by the records of the Alabama Department of Corrections, the Childersburg Work Release Center.

DONE this 3rd day of February, 2017.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE